IN THE HIGH COURT OF JUDICATURE FOR RAJASTHAN AT JODHPUR

CIVIL SECOND APPEAL No. 124 of 2003

MUNESH KUMAR
V/S
NAGAR PALIKA BOARD JAISALMER

Mr. RK THANVI, for the appellant / petitioner

Mr. YASHWANT MEHTA, for the respondent

Date of Order : 20.9.2006

HON'BLE SHRI N P GUPTA,J.

ORDER

Heard learned counsel for the parties, and perused the impugned judgments.

The plaintiff had filed the present suit for injunction against the respondents interalia to be in possession of the land in question by alleging that earlier his father was carrying on the business of toys during fair. Thereafter since the tradition of holding fair faded his father closed the shop and started business else-where. However, on the plaintiff coming up of age, he started again carrying on business but by then the shop had been dilapidated. Interalia with these averments it was prayed that the plaintiff is in old possession of the shop, and the respondents be restrained from dispossessing him.

The suit was contested interalia on the ground that the land is an old Burj of the city wall, and it neither was ever nor is a shop, and simply because the

plaintiff placed cabin on the open land he cannot be said to be in possession of the same. Apart from the fact that he has already been dispossessed.

Both the learned courts below have found that the stand as projected is not established. The allegations are vague. It has also been found that it is not pleaded in the plaint as to what was construction which has got dilapidated. It was also found that the plaintiff has failed to establish his title or possession over the land, rather it appears that in the blue prints submitted by the plaintiff for obtaining permission for construction, the land was shown to be in his encroachment, and in the North thereof Burj were shown, which clearly shows that the land is of Municipality. It has been found that the plaintiff has already been dispossessed from the land. It was also found that shortly thereafter the plaintiff again made encroachment. Interalia with these findings the suit of the plaintiff has been dismissed.

These findings have been affirmed by the learned lower Appellate Court which are all pure finding of fact, and are not satisfactorily shown to have been vitiated on any of the grounds available under Section 100 C.P.C.

The appeal thus does not involve any substantial question of law. The same is, therefore, dismissed summarily.

(N P GUPTA),J.

/Sushil/